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MINISTRY OF LAW

New Delhi, the 10th May, 1955

The following Act of Parliament received the assent of the President on the 7th May, 1955 and is hereby published for general information:—

THE SEA CUSTOMS (AMENDMENT) ACT, 1955

No. 21 OF 1955

[7th May, 1955]

An Act further to amend the Sea Customs Act, 1878

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. This Act may be called the Sea Customs (Amendment) Act, Short title. 1955.

2. In the proviso to section 25 of the Sea Customs Act, 1878 (here- Amendment of section 25, Act VIII of 1878. inafter referred to as the principal Act), for the words “without payment of duty”, the following shall be substituted, namely:—

“without payment of duty if no drawback in respect of the goods has been allowed under section 43B, and on payment of duty equal to the amount of the drawback if drawback has been allowed under that section”.

3. After section 29 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 29A and 29B in Act VIII of 1878.

“29A. Notwithstanding anything contained in this Act, goods chargeable to duty may, prior to the examination thereof, be permitted by the Customs-collector to be assessed for the purposes of this Act on the basis of the statement contained in the Assessment of duty prior to examination of goods.

bill of entry or shipping bill, as the case may be, but if it is found subsequently on an examination of the goods or otherwise, that any such statement is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action which may be taken under this Act, be reassessed to duty.

Provisional
assessment
of duty.

29B. (1) Notwithstanding anything contained in this Act, but without prejudice to the provisions contained in section 29,—

(a) where the owner of any goods makes and subscribes a declaration before the Customs-collector to the effect that he is unable for want of full information to state precisely the real value or quantity of such goods in a bill of entry or a shipping bill, as the case may be; or

(b) where the owner of any goods has furnished full information in regard to the real value or quantity of the goods but the Customs-collector requires further proof in respect thereof; or

(c) where the Customs-collector deems it expedient to subject any goods liable to duty, to any chemical or other test,

the Customs-collector may direct that the duty leviable on such goods may, pending the production of such information or proof or pending the completion of any such test, be assessed provisionally in accordance with, and subject to the provisions of, this section and any rules made thereunder.

(2) When the owner of any goods in respect of which the duty has been assessed provisionally under sub-section (1) has paid such duty, the officer of Customs may make an order allowing the goods to be cleared for home consumption or shipped or water borne to be shipped for exportation, as the case may be, and such order shall be sufficient authority for the removal of the goods by the owner.

(3) When the duty leviable on such goods is assessed finally in accordance with the provisions of this Act, the duty provisionally assessed under sub-section (1) shall be adjusted against the duty finally assessed, and if the duty provisionally assessed falls short of, or is in excess of, the duty finally assessed, the owner of the goods shall pay the deficiency or be entitled to a refund, as the case may be.

(4) The Chief Customs-authority may, subject to the condition of previous publication, make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may provide for—

(a) the circumstances in which, and the restrictions, and conditions subject to which, duty may be provisionally assessed on any goods and the manner in which such duty may be so assessed;

(b) the furnishing of any security for the payment of the deficiency, if any, between the duty finally assessed, and the duty provisionally assessed; and

(c) the final assessment of duty, where the owner of the goods fails to furnish full information within a specified period regarding the real value or quantity of the goods.

(5) All rules made under this section shall be laid before both Houses of Parliament, as soon as may be, after they are made.”.

4. In section 37 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Amendment of section 37, Act VIII of 1878.

“*Explanation*.—A bill of entry shall, for the purposes of this section, be deemed to be delivered—

(a) when it is first presented to the proper officer of Customs; or

(b) where it is delivered in anticipation of the arrival of the importing vessel, on the date on which an order is given under section 57 for the entry of the vessel inwards.”.

5. For section 39 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 39 in Act VIII of 1878.

“39. (1) When customs duties or charges have not been levied or have been short-levied through inadvertence, error, collusion or misconstruction on the part of the officers of Customs, or through mis-statement as to real value, quantity or description on the part of the owner,

Payment of duties not levied, short-levied or erroneously refunded.

or when any such duty or charge, after having been levied, has been, owing to any such cause, erroneously refunded,

the person chargeable with the duty or charge which has not been levied or which has been so short-levied, or to whom such refund has erroneously been made, shall pay the duty or

charge or the deficiency or repay the amount paid to him in excess, on a notice of demand being issued to him within three months from the relevant date as defined in sub-section (2);

and the Customs-collector may refuse to pass any goods belonging to such person until the said duties or charges or the said deficiency or excess be paid or repaid.

(2) For the purposes of sub-section (1), the expression "relevant date" means:—

(a) in a case where the duty or charge has not been levied, the date on which the Customs-officer makes an order for clearance of the goods;

(b) in a case where the duty is re-assessed under section 29A, the date of re-assessment;

(c) in a case where the duty is provisionally assessed under section 29B, the date of final adjustment of duty;

(d) in a case where the duty or charge has been erroneously refunded, the date of refund; and

(e) in any other case, the date of the first assessment."

Amendment of section 40, Act VIII of 1878. 6. To section 40 of the principal Act, the following *Explanation* shall be added, namely:—

"Explanation.—Where duty is provisionally assessed under section 29B, the period of three months shall be computed from the date of final adjustment of duty."

Insertion of new section 54A in Act VIII of 1878. 7. After section 54 of the principal Act, the following section shall be inserted, namely:—

Delivery of manifest before arrival of vessel

"54A. Notwithstanding anything contained in this Act, the Customs-collector may, subject to any general or special order issued by the Chief Customs-authority, allow a manifest to be delivered in anticipation of the arrival of a vessel."

Amendment of section 86, Act VIII of 1878. 8. In section 86 of the principal Act, for the first paragraph, the following paragraph shall be substituted, namely:—

"The owner of any goods shall, after the delivery of the manifest by the master of the vessel in which they are imported, make entry of the goods for home consumption or warehousing by delivering to the Customs-collector a bill of entry thereof with such number of copies, in such form and containing such particulars, in addition to the particulars specified in section 29, as may, from time to time, be prescribed by the Chief Customs-officer."

9. In section 140 of the principal Act, for the proviso in the second paragraph, the following proviso shall be substituted, namely:—

Amendment
of section
140, Act
VIII of 1878.

“Provided that no such refund shall be allowed unless a claim therefor is made within three months of the date on which the said vessel left the port.”

10. In the Schedule to section 167 of the principal Act,—

Amendment
of section
167, Act
VIII of 1878.

(a) after item 76, the following items shall be inserted, namely:—

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| <p>“76A. If any person resists or refuses to allow a radiologist to screen or take X-ray pictures of his body in accordance with an order made by a Magistrate.</p> | <p>170A Such person shall on conviction before a Magistrate be liable to imprisonment for any term not exceeding six months, or to fine, or to both.</p> |
| <p>76B. If any person resists or refuses to allow suitable action being taken on the advice and under the supervision of a registered medical practitioner for bringing out any dutiable, or prohibited goods secreted inside his body.</p> | <p>170A Such person shall on conviction before a Magistrate be liable to imprisonment for any term not exceeding six months, or to fine, or to both.”;</p> |

(b) in item 80, in the entry in the first column, for the words and figures “without the approval of the Customs-collector under section 202”, the words and figures “without being in possession of a valid licence required under section 202” shall be substituted;

(c) after item 80, the following item shall be inserted, namely:—

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| <p>“81. If any person knowingly, and with intent to defraud the Government of any duty payable thereon, or to evade any prohibition or restriction for the time being in force under or by virtue of this Act with respect thereto acquires possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any goods which have been unlawfully removed from a warehouse or which are chargeable with a duty which has not been paid or with respect to the importation or exportation of which any prohibition or restriction is for the time being in force as aforesaid ; or</p> | <p>General Such person shall on conviction before a Magistrate be liable to imprisonment for any term not exceeding two years, or to fine, or to both.”.</p> |
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If any person is in relation to any goods in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any such prohibition or restriction as aforesaid or of any provision of this Act applicable to those goods.

Insertion of
new section
170A in Act
VIII of 1878.

11. After section 170 of the principal Act, the following section shall be inserted, namely:—

Power to
screen or
X-ray bodies
of persons
for detecting
secreted
goods.

"170A. (1) Where any officer of Customs duly employed in the prevention of smuggling has reason to believe that any person on board of any vessel in any port in India or any person who has landed from any vessel has any dutiable, or prohibited goods secreted inside his body, such officer of Customs may detain such person and produce him without unnecessary delay before the nearest Magistrate.

(2) A Magistrate before whom any person is brought under sub-section (1) shall, if he sees no reasonable ground for believing that such person has any such goods secreted inside his body, forthwith discharge such person.

(3) Where any such Magistrate has reasonable ground for believing that such person has any such goods secreted inside his body and the Magistrate is satisfied that for the purpose of discovering such goods it is necessary to have the body of such person screened or X-rayed, he may make an order to that effect.

(4) Where a Magistrate has made any order under sub-section (3) in relation to any person, any officer of Customs duly employed in the prevention of smuggling shall, as soon as practicable, take such person before a radiologist possessing qualifications recognized by the Central Government for the purpose of this section, and such person shall allow the radiologist to screen or X-ray his body.

(5) A radiologist before whom any person is brought under sub-section (4) shall, after screening or X-raying the body of such person, forward his report, together with any X-ray pictures taken by him, to the Magistrate without any unnecessary delay.

(6) Where on receipt of a report from a radiologist under sub-section (5) or otherwise, the Magistrate is satisfied that any person has any dutiable or prohibited goods secreted inside his body, he may direct that suitable action for bringing out such goods be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction:

Provided that in the case of a female no such action shall be taken except on the advice and under the supervision of a female registered medical practitioner.

(7) Where any person is brought before a Magistrate under this section, such Magistrate may for the purpose of enforcing the provisions of this section order such person to be kept in such custody and for such time as he may direct.

(8) Any expenditure incurred for the purpose of enforcing the provisions of this section (including any fees payable to a radiologist or a registered medical practitioner) shall be defrayed out of moneys provided by Parliament.

(9) Nothing in this section shall apply to any person referred to in sub-section (1), who admits that dutiable or prohibited goods are secreted inside his body, and who voluntarily submits himself for suitable action being taken for bringing out such goods.

Explanation.—For the purposes of this section, the expression “registered medical practitioner” means any person who holds a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916, or notified under section 3 of that Act, or by an authority specified in any of the Schedules to the Indian Medical Council Act, 1933.”

VII of 1916.

XXVII of 1933.

12. After section 171 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 171A in Act VIII of 1878.

“171A. (1) Any officer of Customs duly employed in the prevention of smuggling shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making in connection with the smuggling of any goods.

Power of officers of Customs to summon persons to give evidence and produce documents.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by an authorized agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required :

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908 shall be applicable to any requisition for attendance under this section.

V of 1908.

(4) Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code.”

XLV of 1860.

Amendment
of section
172, Act
VIII of
1878.

13. In section 172 of the principal Act,—

(a) after the words “prohibited goods”, the words “or any documents relating to such goods” shall be inserted, and

(b) after the words “to search for such goods”, the words “or documents” shall be inserted.

Insertion of
new section
178A in Act
VIII of
1878.

Burden of
proof.

14. After section 178 of the principal Act, the following section shall be inserted, namely:—

“178A. (1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be on the person from whose possession the goods were seized.

(2) This section shall apply to gold, gold manufactures, diamonds and other precious stones, cigarettes and cosmetics and any other goods which the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every notification issued under sub-section (2) shall be laid before both Houses of Parliament as soon as may be after it is issued.”.

Insertion of
new section
187A in Act
VIII of
1878.

15. After section 187 of the principal Act, the following section shall be inserted, namely:—

Cognizance
of offences.

“187A. No court shall take cognizance of any offence relating to smuggling of goods punishable under item 81 of the Schedule to section 167, except upon complaint in writing, made by the Chief Customs-officer or any other officer of Customs not lower in rank than an Assistant Collector of Customs authorized in this behalf by the Chief Customs-officer.”.

Insertion of
new section
190A in Act
VIII of 1878.

Powers of
revision of
Chief Customs-
authority and
Chief
Customs-officer.

16. After section 190 of the principal Act, the following section shall be inserted, namely:—

“190A. (1) The Chief Customs-authority may of its own motion or otherwise call for and examine the record of any proceeding in which an officer of Customs has passed any decision or order under this Act for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may pass such order thereon as it thinks fit:

Provided that no order prejudicial to any person shall be passed under this section unless such person has been given a reasonable opportunity of making a representation against the proposed order.

(2) The powers conferred upon the Chief Customs-authority under sub-section (1) may also, in the like manner and subject to the like conditions, be exercised by the Chief Customs-officer in respect of any decision or order passed under this Act by any officer of Customs subordinate to him.

(3) No decision or order passed by an officer of Customs shall be revised under this section by the Chief Customs-authority or a Chief Customs-officer, as the case may be, after the expiry of two years from the date of the decision or order.”.

17. For section 202 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 202 in
Act VIII of
1878.

“202. (1) With effect from such date as the Central Government may, by notification in the Official Gazette specify, no person shall act as an agent for the transaction of any business relating to the entrance or clearance of any vessel or the import or export of goods or baggage in any custom-house unless such person holds a licence granted in this behalf in accordance with the rules made under sub-section (2).

Custom-
house agents
to be
licensed.

(2) The Chief Customs-authority may make rules for the purpose of carrying out the provisions of this section and in particular, such rules may provide for—

(a) the authority by which a licence may be granted under this section and the period of validity of any such licence;

(b) the form of the licence and the fees payable therefor;

(c) the qualifications of persons who may apply for a licence;

(d) the restrictions and conditions (including the furnishing of a security by the licensee for his faithful behaviour as regards the custom-house regulations and officers) subject to which a licence may be granted;

(e) the circumstances in which a licence may be suspended or revoked; and

(f) the appeals, if any, against an order of suspension or revocation of a licence, and the period within which such appeals shall be filed.”.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.